

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

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IN RE EASTMAN KODAK ERISA  
LITIGATION

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) MASTER FILE NO. 6:12-CV-06051-DGL

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THIS DOCUMENT RELATES TO:  
ALL ACTIONS

) ORAL ARGUMENT REQUESTED  
)

**BNY MELLON'S NOTICE OF MOTION TO DISMISS CONSOLIDATED COMPLAINT**

The Bank of New York Mellon<sup>1</sup> ("BNY Mellon") respectfully moves this Court for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Consolidated Complaint as to it for the reasons set forth in the accompanying Brief in Support of BNY Mellon's Motion to Dismiss Consolidated Complaint and Declaration of Alison V. Douglass (and exhibits thereto), and granting such other and further relief as the Court deems just and proper.

BNY Mellon intends to file and serve a reply in support of its motion. It also requests oral argument on the motion.

Dated: October 29, 2012

Respectfully Submitted,

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/s/ James O. Fleckner  
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<sup>1</sup> Plaintiffs have incorrectly named an entity identified as BNY Mellon Financial Corporation as a defendant in the Consolidated Complaint.

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and that paper copies will be sent to those indicated as non-registered participants on October 29, 2012.

/s/ James O. Fleckner  
James O. Fleckner